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10/815,638	04/02/2004	Paul Lapstun	HYC005US	9557
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EXAMINER GRAY, BRANDON RAMON				
ART UNIT		PAPER NUMBER		
3714				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pair@silverbrookresearch.com
patentdept@silverbrookresearch.com
uscorro@silverbrookresearch.com

Office Action Summary

Application No.

10/815,638

Applicant(s)

LAPSTUN ET AL.

Examiner

BRANDON GRAY

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date 7/20/10
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's Submission of a Response

Applicant submission of a response on 5/25/10 has been received and considered. In the response, claims and 1-26 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9-20 and 28-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat Number 6,330,976 to Dymetman in view of US Pat 6,527,638 to Walker.

Regarding claim 1, Dymetman discloses method of: limiting subsequent communication between a competition administrator and the entrant; via a sensing device (fig 8) interacting with machine-readable coded data (fig 5a) on a printed entry form (fig 1), the method comprising the steps, performed in a computer system, of:

(a) receiving interaction data representing the interaction of the sensing device with the coded data, the interaction data enabling the competition entry to be electronically captured in the computer system (col 8, lines 45-67);

(b) transmitting the entry to the administrator (col 9, lines 1-15, col 34, lines 1-15, the host is equivalent to the administrator); and

Dymetman is silent on enabling an entrant to enter a competition and (c) enabling transmission of up to a predetermined number of electronic messages from the competition administrator to the entrant.

However, Walker teaches enabling an entrant to enter a competition and (c) enabling transmission of up to a predetermined number of electronic messages from the competition administrator to the entrant (col 2, lines 7-13, col 5, lines 45-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's predetermined messages for the benefit of controlling the number of messages sent during operation.

Regarding claim 9, Dymetman is silent on wherein the message is sent by the competition administrator in response to an electronic status request sent to by the competition administrator by the competition entrant.

However, Walker teaches the message is sent by the competition administrator in response to an electronic status request sent to by the competition administrator by the competition entrant (col 5, lines 55-67, col 6, lines 1-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's messages for the benefit of keeping the status of the competition.

Regarding claim 10, Dymetman is silent on the electronic message is indicative of a status of the competition.

However, Walker teaches the electronic message is indicative of a status of the competition (col 5, lines 35-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's status for the benefit keeping the user informed.

Regarding claim 11, Dymetman is silent on further including the steps, performed in the computer system, of: assigning a competition alias ID to the competition entrant; and transmitting the competition alias ID to the competition administrator with the competition entry, thereby maintaining anonymity of the entrant with respect to the competition administrator.

However, Walker teaches the steps, performed in the computer system, of: assigning a competition alias ID to the competition entrant; and transmitting the competition alias ID to the competition administrator with the competition entry, thereby maintaining anonymity of the entrant with respect to the competition administrator (col 6, lines 20-43).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's ID for the benefit of recognizing the user.

Regarding claim 12, Dymetman discloses the competition entry form is disposed on a product label (fig 14, col 31, lines 45-65).

Regarding claim 13, Dymetman is silent on the competition administrator is under the control of a manufacturer, producer or other commercial entity associated with the product label.

However, Walker teaches the competition administrator is under the control of a manufacturer, producer or other commercial entity associated with the product label (col 14, lines 7-35)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's entity for the benefit of relating the services to one another.

Regarding claim 14, Dymetman is silent on the electronic message is indicative of any one or more of the following: a confirmation of competition entry; a reminder that the competition is running; a reminder that the competition is closing soon; an announcement of a winner of the competition; an announcement that the entrant has won something through the competition; and an announcement that the entrant has failed to win something through the competition.

However, Walker teaches the electronic message is indicative of any one or more of the following: a confirmation of competition entry; a reminder that the competition is running; a reminder that the competition is closing soon; an announcement of a winner of the competition; an announcement that the entrant has won something through the competition; and an announcement that the entrant has failed to win something through the competition (col 5, lines 35-55, the credit and debiting is equivalent to a announcement).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's announcement of a winner for the benefit of showing the user how they are doing.

Regarding claim 15, Dymetman discloses the form is disposed on a product label including human-readable information (fig 14, col 31, lines 45-65) but is silent on it relating to the competition.

However, Walker teaches a competition (col 2, lines 7-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's competition for the benefit of further diversifying the game.

Regarding claim 16, Dymetman discloses at least some of the coded data includes a label identifier (col 7, lines 5-17).

Regarding claim 17, Dymetman discloses the label identifier is a unique product item identifier (col 7, lines 5-17).

Regarding claim 18, Dymetman the unique product item identifier is an electronic product code (fig 6b, col 13, lines 55-67).

Regarding claim 19, Dymetman discloses the machine-readable coded data is substantially invisible to a human (fig 5a, col 13, lines 33-44).

Claim 20 is rejected under the same basis as claim 1.

Regarding claim 28, Dymetman discloses the entry form includes human-readable information, the interaction data representing interaction of the sensing device with the human-readable information such that at least some of the coded data coincident or adjacent the human-readable information is sensed during the interaction (fig 8, 15, col 15, lines 15-45, col 29, lines 60-67, col 30 lines 1-20) but is silent on the competition.

However, Walker teaches the competition (col 2, lines 7-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's competition for the benefit of further diversifying the game.

Regarding claim 29, Dymetman discloses the coded data relates to an identity of the label, and the interaction data is indicative of the identity, entry being electronically captured at least partially on the basis of the identity (col 7, lines 5-17, col 29, lines 60-67, col 30, lines 1-20) but is silent on the competition.

However, Walker teaches the competition (col 2, lines 7-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's competition for the benefit of further diversifying the game.

Regarding claim 30, Dymetman discloses the form includes one or more of: information fields that show information (fig 15); button fields that generate one or more actions in the computer system when interacted with by the sensing device (fig 8 and 15); and entry fields for receiving user input through interaction of the sensing device with the entry fields (fig 14); the interaction data representing interaction of the sensing device with the one or more fields (col 29, lines 60-67, col 30, lines 1-40) but is silent on the competition.

However, Walker teaches the competition (col 2, lines 7-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's competition for the benefit of further diversifying the game.

Claim 31 is rejected under the same basis as claim 12.

Claim 32 is rejected under the same basis as claim 16.

Claim 33 is rejected under the same basis as claim 17.

Claim 34 is rejected under the same basis as claim 18.

Claim 35 is rejected under the same basis as claim 13.

Regarding claim 36, Dymetman discloses the computer system includes a Hyperlabel server configured and programmed to convert the interaction data to form data for correlating, and to transmit the form data (col 9, lines 45-65, col 23, lines 10-67, col 24, lines 1-12) but is silent on the competition and transmitting that data to the competition administrator.

However, Walker teaches the competition and transferring data to the competition administrator (col 5, lines 35-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's transferring for the benefit of sharing data during the competition.

Regarding claim 37, Dymetman's discloses the computer system includes a netpage registration server configured and programmed to identify (col 24, lines 1-15, 45-67) but is silent on the competition entrant and to allocate a competition alias identification to maintain anonymity of the competition entrant.

However, Walker teaches the competition entrant and to allocate a competition alias identification to maintain anonymity of the competition entrant (col 6, lines 2-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's ID for the benefit of keeping the interaction private.

Regarding claim 38, Dymetman is silent on further comprising an internet-accessible location for posting the electronic messages, the electronic messages being accessible to the entrant via the location.

However, Walker further comprising an internet-accessible location for posting the electronic messages, the electronic messages being accessible to the entrant via the location (col 5, lines 10-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's messages for the benefit of communicating during play.

Claim 39 is rejected under the same basis as claim 15.

Claim 40 is rejected under the same basis as claims 1 and 12.

Claim 41 is rejected under the same basis as claims 12, 20 and 30.

Regarding claim 42, Dymetman discloses for entry to a via a printed competition entry form that includes machine-readable coded data, the method including the steps, performed in a computer system (fig 14), of:

receiving interaction data representing interaction of a sensing device (fig 8) with the coded data, the interaction data enabling the competition entry to be electronically captured in the computer system (fig 1, col 8, lines 45-67, col 9, lines 1-10);

Dymetman is silent on assigning a competition alias ID to the competition entry; and transmitting the competition entry to a competition administrator with the competition alias ID, thereby enabling the anonymous entry to the competition.

However, Walker teaches assigning a competition alias ID to the competition entry; and transmitting the competition entry to a competition administrator with the competition alias ID, thereby enabling the anonymous entry to the competition (col 5, lines 55-67, col 6, lines 1-15 and 20-43).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's entry for the benefit of keeping information private.

Regarding claim 43, Dymetman discloses entry being entered by interaction of a sensing device with a product label to generate interaction data indicative of at least an intention to enter (fig 15), the method including the steps, performed in a computer system, of:

identifying a first telecommunication address of the entrant from (col 24, lines 1-12): an identity of the sensing device received or determined in the computer system; or the interaction data;

associating a temporary telecommunication address with the first telecommunication address (col 24, lines 1-40); sending the temporary telecommunication address and interaction data to a competition administrator (col 9, lines 1-10);

receiving, from the competition administrator, information from the competition administrator addressed to said temporary telecommunication address (col 9, lines 45-55); and forwarding the information from the competition administrator to the first telecommunication address (col 24, lines 1-15) . Dymetman is silent on enabling anonymous entry to a competition.

However, Walker teaches enabling anonymous entry to a competition (col 6, lines 1-42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's entry for the benefit of keeping information private.

Claim 44 is rejected under the same basis as claim 1.

Regarding claim 45, Dymetman discloses enabling an entrant to enter via a printed competition entry form that includes machine-readable coded data that can be sensed by a sensing device (fig 8) configured to generate interaction data based on the sensed coded data (col 8, lines 45-67), the method comprising the steps, performed in a computer system, of: receiving the interaction data representing interaction of the sensing device with the coded data (fig 1, 14), the interaction data enabling the competition entry to be captured in the computer system (fig 1); transmitting the competition entry to a competition administrator that is configured to determine the competition entry (col 9, lines 1-10). Dymetman is silent on an instant win competition and an instant win entry.

However, Walker teaches an instant win competition and an instant win entry (col 5, lines 35-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's instant win games for the benefit of having a variety of choices.

Regarding claim 46, Dymetman discloses a product label (fig 14, col 31, lines 45-65), the product label including machine-readable coded data (fig 5a), the method including the steps, performed in a computer system (fig 1), of: receiving interaction data representing interaction of

a sensing device with the coded data, the interaction data enabling electronic capture of: data (col 8, lines 45-67); and

a product identifier associated with the product label (col 7, lines 5-17); and
transmitting the data, the product identifier (col 9, lines 1-10)

Dymetman is silent on the competition alias ID to a coupon administrator configured to redeem the coupon electronically, enabling anonymous electronic redemption of a coupon printed and assigning a competition alias ID to the coupon data.

However, Walker teaches the competition alias ID to a coupon administrator configured to redeem the coupon electronically, enabling anonymous electronic redemption of a coupon printed and assigning a competition alias ID to the coupon data (col 6, lines 25-42, col 18, lines 25-44).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Walker's coupon for the benefit of giving the user a chance to redeem winnings.

Claim 47 is rejected under the same basis as claims 1 and 46.

Claim 48 is rejected under the same basis as claims 1 and 11.

Claim 49 is rejected under the same basis as claim 1, 17, 18.

Claims 2-8, and 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat Number 6,330,976 to Dymetman in view of US Pat 6,527,638 to Walker and US Pat 6,229,807 to Bauchot.

Regarding claim 2, Dymetman is silent wherein step (c) includes the steps of incrementing a contact count for each electronic message sent from the competition

administrator to the competition entrant, and preventing transmission of further electronic messages once the contact count flag reaches a predetermined maximum value.

However, Bauchot teaches step (c) includes the steps of incrementing a contact count for each electronic message sent from the competition administrator to the competition entrant, and preventing transmission of further electronic messages once the contact count flag reaches a predetermined maximum value (col 4, lines 8-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Bauchot's count for the benefit keeping track of the amount of messages sent.

Regarding claim 3, Dymetman is silent on wherein the maximum value is one.

However, Bauchot teaches wherein maximum value is one (col 4, lines 15-30)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Bauchot's value for the benefit of giving the user more control during operation.

Regarding claim 4, Dymetman is silent on wherein the maximum value is zero.

However, Bauchot teaches wherein the maximum value is zero (col 4 lines 15-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Bauchot's value for the benefit of giving the user more control during operation.

Regarding claim 5, Dymetman is silent on wherein the maximum value is set by the competition entrant.

However, Bauchot's teaches wherein the maximum value is set by the competition entrant (col 4, lines 15-35 the mt being the equivalent to entrant).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Bauchot's set value for the benefit of giving the user a limit.

Regarding claim 6, Dymetman discloses the entrant through interaction of the sensing device with the printed competition entry form, the method including the steps of receiving, in the computer system, data indicative from the sensing device (fig 1, col 8, lines 30-60). Dymetman is silent on the maximum value.

However, Bauchot's teaches the maximum value (col 4, lines 15-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Bauchot's value for the benefit of giving the user a limit.

Regarding claim 7, Dymetman discloses the data indicative is indicative of the sensing device having been used to interact with the printed competition entry form to check a box or indicate a selection (col 8, lines 40-65). Dymetman is silent on the maximum value.

However, Bauchot's teaches the maximum value (col 4, lines 15-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Bauchot's value for the benefit of giving the user a limit.

Regarding claim 8, Dymetman discloses wherein the data indicative of the sensing device having been used to interact with the printed competition entry form to write a number (col 7, lines 10-17, col 8, lines 40-60), Dymetman is silent on the number being interpreted as the maximum value.

However, Bauchot's teaches the maximum value (col 4, lines 15-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Dymetman's with Bauchot's value for the benefit of giving the user a limit.

Claim 21 is rejected under the same basis as claim 2.

Claim 22 is rejected under the same basis as claim 3.

Claim 23 is rejected under the same basis as claim 4.

Claim 24 is rejected under the same basis as claim 5.

Claim 25 is rejected under the same basis as claim 6.

Claim 26 is rejected under the same basis as claim 7.

Claim 27 is rejected under the same basis as claim 8.

Response to Arguments

Applicant arguments filed 5/25/10 have been fully considered and are not entirely persuasive.

On page one, paragraph six, Applicant argues that Walker fails to teach electronic messages being transmitted from the competition administrator to the entrant and a predetermined number of messages. The Examiner contends that Walker teaches, in col 2, lines 7-13, enabling an entrant to enter a competition. Dymetman discloses the administrator, in col 9, lines 1-15, col 34, lines 1-15, the host is equivalent to the administrator. Walker further discloses in col 5, lines 45-67, the data communicated which is synonymous with a electronic messages between the entrant and the wagering establishment, the data is read and authenticated. Walker explicitly discloses communicating messages in col 5, lines 45-67.

Conclusion

Applicant's amendment necessitated the new grounds of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON GRAY whose telephone number is (571)270-7465. The examiner can normally be reached on Mon- Fri 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. G./
Examiner, Art Unit 3714

/JAMES S. MCCLELLAN/
Primary Examiner, Art Unit 3714